

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

RICKY D. GREEN,)	
)	CASE NO. 4:19CV1267
Petitioner,)	
)	
v.)	JUDGE BENITA Y. PEARSON
)	
WARDEN DOUGLAS FENDER,)	
)	<u>MEMORANDUM OF OPINION AND</u>
)	<u>ORDER</u>
Respondent.)	[Regarding ECF No. 11]

On March 14, 2022, the assigned magistrate judge issued a Report and Recommendation (“R&R”) denying Petitioner’s request for habeas relief pursuant to [28 U.S.C. § 2254](#) and dismissing Petitioner’s claim of ineffective assistance of counsel. [ECF No. 11](#). Petitioner’s claim is rooted in a failure of Petitioner’s counsel to provide adequate advice prior to Petitioner entering into a plea agreement. The assigned magistrate judge reasoned that “the state court used the correct rule of law and its decision was not an unreasonable application of that law” because Petitioner (i) “failed to connect his counsel’s alleged failure to obtain better plea agreement terms, file a suppression motion, or investigate his mental health to his decision to plead guilty[,]” and (ii) failed to establish why “the range given at the sentencing hearing was somehow erroneous[.]” [Id. at PageID #: 306 – 308](#).

The Federal Magistrates Act requires a district court to conduct a de novo review only of those portions of an R&R to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Parties must file any objections to an R&R within 14 days of service. [Id.](#); [Fed. R. Civ. Pro. 72\(b\)\(2\)](#). Failure to object within this time waives a party’s right to appeal the district

(4:19CV1267)

court's judgment. [*Thomas v. Arn*, 474 U.S. 140, 145 \(1985\)](#); [*United States v. Walters*, 638 F.2d 947, 949 – 50 \(6th Cir. 1981\)](#). Absent objection, a district court may adopt a magistrate judge's report without review. *See* [*Thomas*, 474 U.S. at 149](#).

In the instant case, objections to the R&R were due by March 28, 2022. Petitioner has not filed an objection. The Court finds that the R&R is supported by the record and agrees with the magistrate judge's recommendation.

Accordingly, the Court adopts the R&R ([ECF No. 11](#)). Petitioner's claim of ineffective assistance of counsel is dismissed and the underlying petition ([ECF No. 1](#)) is denied. Also, the Court certifies, pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#), that an appeal from this decision could not be taken in good faith. A Separate Judgment Entry will issue.

IT IS SO ORDERED.

April 29, 2022

Date

/s/ Benita Y. Pearson

Benita Y. Pearson
United States District Judge